

PRESIDING OFFICER'S
RULING NO. N2012-1/27

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Mail Processing Network
Rationalization Service Changes, 2012

Docket No. N2012-1

PRESIDING OFFICER'S RULING
CONCERNING DAVID B. POPKIN MOTION NUMBER 2

(Issued March 14, 2012)

On March 2, 2012, David B. Popkin filed a motion to compel the Postal Service to provide responses to interrogatories DBP/USPS-34, 35, and 40.¹ The Postal Service previously filed objections to answering these interrogatories.² The Postal Service also filed a reply to the Motion.³

Interrogatories DBP/USPS-34 and 35. Interrogatories DBP/USPS-34 and 35 seek information concerning the External First-Class (EXFC) measurement system.

Popkin asserts that the current docket proposes new single-piece First-Class Mail service standards which will be measured using the EXFC measurement system.

¹ David B. Popkin Motion Number 2, March 2, 2012 (Motion). The interrogatories that are the subject of this Motion were filed on February 9, 2012. See Interrogatories of David B. Popkin to the United States Postal Service [DBP/USPS-34 through 44], February 9, 2012.

² United States Postal Service Objections to David B. Popkin Interrogatories (DBP/USPS-34, 35 and 40), February 21, 2012 (Objection).

³ Reply of the United States Postal Service to David B. Popkin Motion No. 2 Seeking to Compel Responses to Interrogatories DBP/USPS-34, 35 and 40, March 9, 2012 (Reply).

Thus, he contends the ability of EXFC to accurately measure the performance of the Postal Service in meeting the new standards is relevant. Motion at 1.

The Postal Service argues the subject matter of the interrogatories is not relevant to the issues raised by the request in the instant docket. The Postal Service notes that the mechanics of service performance measurements are, however, within the scope of Docket No. ACR2011-1 concerning the Annual Compliance Determination (ACD). Objection at 2-3; Reply at 2. The Postal Service further asserts that the Motion fails to assert a nexus between EXFC and any statutory policy. Objection at 2.

The Postal Service correctly observes that review of service performance measurement systems is part of the ACD process. The Postal Service is also required to notify the Commission of all changes to service performance measurement systems. See 39 CFR § 3055.5. The Commission will have an opportunity to review the EXFC system once notification is provided by the Postal Service.

Furthermore, EXFC is used to measure the transit time of a mailpiece. The measurement would appear independent of the service standard applied to the mailpiece. Because of this, a detailed expiration of the EXFC would not seem relevant to a proposal to change service standards. The Motion to compel responses to interrogatories DBP/USPS-34 and 35 is denied.

Interrogatory DBP/USPS-40. Interrogatory DBP/USPS-40 seeks information on Bulk Mail Entry Units (BMEUs).

Popkin argues that the ability of mailers to access local BMEUs is relevant to changes in service standards. He contends that changes in service standards may force mailers to use a different entry point for their mail with potentially different service standards and entry times. He states that the purpose of the interrogatory is to determine whether BMEUs in other states were affected as drastically as New Jersey BMEUs. Finally, he observes that the Postal Service has not quantified the level of burden to respond to this interrogatory in its Objection. Motion at 4.

The Postal Service argues that the interrogatory does not seek information relevant to the issues in Docket No. N2012-1. The Postal Service contends that

historical information concerning the number of BMEUs sheds no light on whether the future number of BMEUs would be consistent with the provision of service in accordance with the policies of title 39. Objection at 4; Reply at 4. The Postal Service further contends that the interrogatory does not focus on the service standard issues cited by Popkin in his Motion, but on the historical impact of BMEU changes in New Jersey. *Id.* In conclusion, the Postal Service clarifies that it is not relying on a burden argument. *Id.*

Interrogatory DBP/USPS-40 appears to focus on historical information concerning BMEUs located in New Jersey and possible disparate impacts on New Jersey BMEUs compared with BMEUs located in other states that may or may not have occurred in the past. A response to this interrogatory would not appear to shed light on any aspect of the Postal Service's Rationalization initiative going forward, or potential title 39 policy issues associated with this initiative. No argument has been provided indicating how a response would lead to the future development of admissible evidence. The Motion to compel a response to interrogatories DBP/USPS-40 is denied.

RULING

David B. Popkin Motion Number 2, filed March 2, 2011, is denied.

Ruth Y. Goldway
Presiding Officer